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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/612,856

07/03/2003

James D. Webb

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4405

27581 7590 10/27/2009
MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

EXAMINER

MANUEL, GEORGE C

ART UNIT

PAPER NUMBER

3762

MAIL DATE

DELIVERY MODE

10/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 10/612,856 | Applicant(s) WEBB ET AL. | |
| | Examiner George Manuel | Art Unit 3762 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/25/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-26 is/are pending in the application.
- 4a) Of the above claim(s) 9-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8 and 23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 8/25/09, with respect to the rejection(s) of claim(s) 1-4, 6-8 and 23-26 under Njemanze (US 6,468,219) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Mault (US 2001/0044588).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 4, 6-8 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mault (US 2001/0044588).

Mault discloses data may be transmitted over a communications network, where it is accessible by a caregiver at a remote location. Temperature measurements may be made of core body temperature (for example using an implanted probe), skin temperature, and ambient temperature.

Mault discloses a system comprising a sensor, a computing device, (preferably a personal digital assistant or other portable computer), a communications network

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(preferably the Internet), the computing device being connected to the network using a wireless connection. A server system (preferably a web server), a physician's computer (a computer accessible by the patient's physician), and a remote computing device (such as a PDA carried by another person with an interest in the patient, such as a relative) are connected to the network. The sensor system may average data, compensate for errors, or otherwise process data before transmission to the computing device. The sensor also preferably comprises an electrical power supply, such as a battery.

One of ordinary skill in the art would have found it obvious to modify the device of Mault to record hemodynamic and cardiac data because Mault teaches the temperature monitoring system could be used along with systems for monitoring other physiological conditions such as heart beats, EKG, blood oxygenation, etc. to give the health care professional immediate accurate information regarding the patient's condition.

Further, motivation to modify the device of Mault to record pulmonary pressure and blood pressure values is provided by the teaching that physiological parameters which may be monitored include blood compositions (such as blood glucose levels, blood oxygenation), physical activity, respiration rate and heart rate.

Regarding claims 8 and 24, one of ordinary skill in the art would have found it obvious to enable access to various zones or pages including a dedicated public zone or section, confidential zone or physician section and a private zone or patient section because Mault teaches the server system may preferably be a web server, a physician's computer (a computer accessible by the patient's physician), or a remote computing

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device (such as a PDA carried by another person with an interest in the patient, such as a relative) all of which are connected to the network.

Regarding claims 25 and 26, monitor 126 provides a display one of ordinary skill in the art would have found obvious to use in presenting cardiac pressure trend data or other trends in retrievable data to assist a physician in make a patient diagnosis.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (571) 272-4952.

/George Manuel/
Primary Examiner
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